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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

In re K.C., a Person Coming Under the Juvenile Court
Law.

C087373

SACRAMENTO COUNTY DEPARTMENT OF
CHILD, FAMILY AND ADULT SERVICES,

(Super. Ct. No. JD238746)

Plaintiff and Respondent,

v.

B.C.,

Defendant and Appellant.

Mother of the minor K.C. appeals from the juvenile court's dispositional orders. (Welf. & Inst. Code, § 361.)¹ Mother contends the court erred in finding the Indian Child Welfare Act (ICWA) did not apply, and in removing the minor from her custody. She

¹ Further undesignated statutory references are to the Welfare and Institutions Code.

further contends she received ineffective assistance of counsel during the contested disposition hearing. Finding no error, we affirm the orders of the juvenile court.

FACTUAL AND PROCEDURAL BACKGROUND

This is a case where the mother's allegations of sexual abuse by father against their young daughter were ultimately found not credible by the Sacramento County Department of Child, Family, and Adult Services (Department) and the juvenile court. At the dispositional hearing, the court dismissed father from the dependency action and granted him full custody of the minor. The court sustained allegations against mother; mother does not contest the jurisdictional findings but challenges the dispositional orders removing the minor from mother and placing her with father and dismissing father from the dependency proceedings.

Pre-Dependency Background

Mother (B.C.) and father (S.C.) gave birth to the minor in November 2013. In April 2017 the parents entered into a stipulated custody agreement in the El Dorado County Superior Court, Family Law Division (Family Court) providing for joint legal and physical custody of the minor.

Between April 2017 and August 2017, mother and father filed a series of opposing ex parte applications and requests for protective orders in the Family Court in which mother alleged father sexually abused the minor and had mental health issues, and father alleged mother had substance abuse issues, made repeated false allegations of sexual abuse against him, prompted the minor to make similar allegations of sexual abuse against him, and was homeless.

On May 26, 2017, the paternal grandmother filed a declaration stating the minor called her on the telephone and asked her to spend the night with the minor so father "won't do bad things to me." The minor made the statement after the paternal grandmother heard mother quietly say, " 'Tell Grandma.' " When the paternal

grandmother told the minor that father does not do bad things to her, the minor responded, “Mommy says to say that.”

On July 7, 2017, the parents reached an agreement in the Family Court case that stipulated written consent was required from a parent before the other parent could take the minor to see a doctor, and the minor would participate in counseling with a specific court-appointed therapist (Stephanie Stilley) and no one else. The judgment of marital dissolution was filed August 3, 2017. The Family Court ordered that the parents have joint legal and physical custody of the minor, with visitation as set forth in the July 2017 stipulated agreement.

On September 28, 2017, after multiple emergency protective orders were sought by mother, father filed a declaration in the Family Court seeking sole custody of the minor based on mother’s false allegations of sexual abuse of the minor and her failure to comply with the July 2017 stipulated agreement, namely by continuing to take the minor to doctors and medical facilities without father’s consent or knowledge. Mother filed a declaration in response alleging concerns about father’s mental health and again alleging sexual abuse of the minor.

Dependency Proceedings

In December 2017, the Department received a referral from mother claiming sexual abuse of the minor by father. On January 4, 2018, the Department received a second referral from mother reporting spanking and other abuse by father of the minor. On January 11, 2018, the minor’s court-appointed counselor reported that at the beginning of the counseling session, the minor was emotional and resistant to participating in any way. When asked if she promised to tell the truth, the minor responded, “Well I don’t, I don’t, but, but I want, uh oh, but I don’t want, I don’t want to . . . mommy.” The minor eventually identified the parts of her body that others should not touch and reported inappropriate touching by father. Also that day, mother sought a

temporary restraining order against father asserting that he had physically and sexually abused the minor every weekend since November 2016.

On January 17, 2018, Dr. Angela Vickers, medical director of the Sutter Health Bridging Evidence Assessment and Resources (BEAR) Clinic, examined the minor and reported the results were normal with no physical findings indicating sexual abuse or trauma. Vickers observed several bruises, but noted they were not related to the alleged abuse and were considered normal for a child the minor's age.

On January 19, 2018, a forensic interview specialist interviewed the minor, who was initially uncooperative, but eventually calmed down. When asked if something happened that was "not okay," the minor responded, "[Y]ou're here to talk about my dad." She then provided some limited information regarding alleged inappropriate touching of her by father.

On January 23, 2018, the Department filed a juvenile dependency petition pursuant to section 300, subdivision (d) alleging the four-year old minor was sexually abused by father during weekend visits. At the detention hearing, the juvenile court temporarily placed the minor with mother pending the next hearing.

Social worker Mai Lor interviewed mother on February 2, 2018. Mother reported the minor was afraid to see father. Mother reported the minor returned from a recent weekend visit with father with a bite mark and a bruise on her buttock and that the minor made disclosures of sexual abuse by father similar to those previously reported. Mother reported the minor had been disclosing sexual abuse by father since November 2016 and as recently as mid-January 2018 and would make these disclosures "out of the blue" while in the car or during bedtime. She stated the minor had chronic genital pain and other issues and, in the past two years, had been to three different emergency rooms and the urologist. Mother claimed the Family Court had been informed of the sexual abuse allegations but "did not take [them] into consideration" when it made the visitation and

custody orders. She reported taking hydrocodone prescribed monthly as well as medication for her attention deficit disorder (ADD).

On February 8, 2018, mother tested positive for amphetamine, opiates, oxycodone, and marijuana. She provided a prescription for hydrocodone and amphetamine /dextroamphetamine, and thereafter twice tested positive for amphetamine, opiates, and oxycodone.

On February 16, 2018, the minor's primary care physician examined the minor and concluded there were "no abnormal findings." Father reported the paternal grandmother had been sleeping on the floor of the minor's bedroom (at father's house) every weekend since the sexual abuse allegations were first reported and noted that someone else was always present whenever he and the minor were together.

The February 2018 jurisdiction/disposition report summarized five reports from December 2016 to December 2017 generated by the El Dorado County Sheriff's Department in response to various claims by mother of sexual abuse of the minor by father. The report also summarized reports from numerous medical facilities and medical professionals regarding examinations of the minor at mother's request and delivered service logs detailing numerous sexual abuse allegations by mother from December 2016 to August 2017. The report stated clinical psychiatrist (Stacey Peerson) had met with the minor approximately five times in 2017 and noted the minor had not made any disclosures regarding sexual abuse by father.

At the February 21, 2018 jurisdiction/disposition hearing, the juvenile court reinstated father's supervised visitation.

The April 2018 report addendum stated mother tested positive for amphetamine, opiates, and oxycodone on April 4 and April 9, 2018. Mother provided current prescriptions for amphetamines and hydrocodone. Father's April 8 and April 15, 2018, visits with the minor were reportedly fine with no concerns.

The Department concluded there was insufficient evidence to support mother's allegations of sexual abuse of the minor by father. It specifically noted that Dr. Vickers' examination of the minor revealed no trauma-related injuries, and that several medical exams dating back to December 2016 had concluded there were no findings of trauma or sexual abuse. Further, many of the minor's statements were inconsistent in significant ways.

On April 18, 2018, the Department requested that the juvenile court dismiss the section 300, subdivision (d) allegation regarding sexual abuse by father. Minor's counsel requested additional time to determine whether there was sufficient evidence to pursue a section 300, subdivision (c) allegation² against mother. The court ordered the parties to prepare pretrial statements and set a contested hearing.

² Section 300, subdivision (c) provides in relevant part: "The child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care."

Contested Jurisdiction/Disposition Hearing

Father's testimony

Father testified that mother frequently took the minor to be seen by doctors for different perceived medical issues, but no diagnoses resulted. In 2016 mother began focusing on the minor's vaginal pain. At that time the minor was sleeping in the same bed with both parents. Father testified he helped care for the minor, including taking her to the bathroom, and never observed her to have any issue with her vaginal area. Despite going to urgent care several times and hearing the doctor repeatedly say there was nothing wrong with the minor, mother continued to take the minor to see various doctors. Mother claimed the minor was rubbing her vaginal area but father never saw the minor do so.

In December 2016 father separated from mother and moved in with the paternal grandparents after mother claimed the paternal grandparents sexually abused the minor, and then claimed father was the perpetrator. At some point when mother was attempting to reconcile with father, she sent father a text message stating, "I know you didn't do this." Mother also suggested in text messages that she did not think there had been any sexual abuse at all. During the time father lived with the paternal grandmother, he never observed the minor exhibiting any type of vaginal pain or related symptoms, and the minor never complained of pain. He estimated mother had taken the minor to 22 doctor visits over the past two years during which she had been subjected to physical examinations, including examinations of her vaginal area.

Dr. Stacey Pearson's Testimony

Dr. Pearson was qualified as an expert in childhood trauma. She started working with the minor on August 3, 2017. Mother did not mention the stipulation requiring that the minor be seen only by court-appointed therapist Stilley. Pearson first was told by mother that father was sexually abusing the minor. Pearson initially diagnosed the minor with adjustment disorder based wholly on mother's reporting of symptoms. During the

first session, the minor did not report any kind of abuse or neglect by father. Thereafter, she reported “mean things” and “bad game[s]” as she pointed to the genital area of her doll. Peerson noted the minor disassociated several times, which indicated the minor was “really distressed.”

On March 15, 2018, Peerson updated the minor’s diagnosis as posttraumatic stress disorder (PTSD). She admitted the minor’s PTSD could have been due, in part, to being separated from father and the paternal grandmother, having repeated examinations of her vaginal area, and repeatedly being questioned by professionals about being sexually abused. Peerson also confirmed that cosleeping with mother, the presence of police officers in the home, and being told to keep things secret from other adults could contribute to PTSD.

Peerson stated it would be concerning to her to learn that mother told the minor to keep secrets from the paternal grandmother about what the doctors said and that mother asked the minor to contact the paternal grandmother and make allegations of sexual abuse. When asked whether she found the minor’s disclosure of father’s sexual abuse credible, Peerson responded, “I believe that she believed what she was saying.” Peerson acknowledged she had not noticed any change or regression in the minor’s behavior since weekend visitation with father had resumed.

Dr. Angela Vickers’ Testimony

Dr. Vickers was qualified as an expert in child physical abuse pediatrics. She testified she examined the minor in early January 2018. She obtained a history from mother and then examined the minor “head to toe,” including the minor’s anus and genital area. Vickers found only a normal variation that was unrelated to sexual abuse.

Social Worker Mai Ger Lor’s Testimony

Social worker Lor noted there were many CPS referrals based on mother’s allegations of sexual abuse by father between December 2016 and January 2018, almost all of which were unsubstantiated. Mother reported to Lor that the paternal grandmother

had walked in on father sexually abusing the minor on at least two occasions. Lor had concerns about mother's veracity, particularly given that mother's claim that the Family Court had been informed about the sexual abuse allegations was directly contradicted by the Family Court counselor, who denied having been provided with such information. Mother's claim that the minor did not want to see father was also contradicted by the family service worker, who stated the minor seemed quite comfortable when she saw father. Lor had further concerns about mother's veracity after mother claimed adamantly that she suffered from rheumatoid arthritis despite her doctor's conclusion that she did not. Lor recommended dismissal of the subdivision (d) allegation against father for lack of evidence to support it.

Mother's Testimony

Mother testified the minor suddenly began to experience severe vaginal pain and irritation and behavioral changes in August 2016. She took the minor to the emergency room and the minor was given a sonogram exam. In November 2016 mother took the minor to a urologist where the minor received a vaginal exam. Several days later, the minor was given another sonogram exam. Mother could not recall how many of the minor's exams involved medical staff performing an exam on the minor's vaginal area. She estimated the minor had been asked questions about someone touching her vaginal area only four times.

The minor first disclosed sexual abuse to mother in late 2016. She was putting the minor to bed and the minor pointed to where father was sleeping in the other room, whispered "Daddy," and pointed to her vaginal area. When mother asked what the minor meant, the minor started crying and whispered, "Daddy touched." Mother stated she panicked but did not initially confront father because the minor said not to but when she did confront him he moved to paternal grandmother's house. Mother testified the minor mentioned the sexual abuse by father after almost every visit with father.

When asked why she brought the minor to see Dr. Peerson despite the court order prohibiting her from doing so, mother claimed she had received permission from her lawyer and CPS to do so as the identity of the court-appointed therapist was unknown. But she also acknowledged the stipulation identified Stilley as such. Mother admitted she told father her family would “vouch” for him and did not believe he was responsible for any of the minor’s allegations of sexual abuse. She had also strongly suggested in text messages that she did not really think father abused the minor.

Mother testified she took hydrocodone prescribed monthly by her doctor. She disagreed with his conclusion that she did not have rheumatoid arthritis. She denied telling the social worker that she had drug-seeking behaviors, but admitted she obtained 473 hydrocodone pills within a five-week period and had, in the past, gone to various pharmacies and reported her medication had been lost or stolen.

Maternal Grandfather’s Testimony

The maternal grandfather testified that, prior to the parents’ separation, the minor was always pulling at her crotch even when she did not need to use the bathroom, something he discussed with the parents in late 2016. He stated that, on May 11, 2018, he overheard the minor making disclosures to her cousin about sexual abuse by father. He testified the minor had made similar disclosures to her cousin after returning from weekend visits with her father. Usually, the minor would say father rubbed her “coo-coo” and it hurt. The maternal grandfather testified that on one occasion when father dropped the minor off, the minor said, “Guess what, Papa? Daddy didn’t touch me this weekend.”

Paternal Grandmother’s Testimony

A.C., the paternal grandmother, testified she accompanied mother to many of the minor’s frequent doctor visits during the first two years of the minor’s life. A.C. became concerned when mother took the minor to the emergency room even though A.C. did not observe any symptoms. During some of the appointments, doctors discussed with mother

her use of prescription medication and its effect on breastfeeding the minor. After mother attempted to fill a family member's prescription for hydrocodone, A.C. and father took the then two-year-old minor to a doctor, who informed A.C. that mother should immediately stop nursing given her excessive use of hydrocodone. However, A.C. subsequently observed mother to be under the influence of prescription medication while breastfeeding.

A.C. recalled that between December 2016 and July 2017, CPS contacted father nine times due to mother's allegations against father of sexual and physical abuse of the minor. A.C. confirmed that after the July 2017 court hearing she and father decided she would sleep on the floor next to the minor's bed during father's weekend visits to protect father from mother's false allegations.

The minor never disclosed to A.C. any sexual abuse by father and A.C. never observed the minor suffering from any pain, particularly in her vaginal area. A.C. bathed the minor and helped her in the bathroom during visits and never observed any bruises or bite marks on the minor as alleged by mother, nor did she observe the minor put her fingers "in her privates and booty and smell them" as alleged by mother. A.C. became concerned that mother was coaching the minor when, during telephone conversations with the minor, A.C. heard the minor say, "Mommy says to say" A.C. also heard the minor say, "Mommy has a plan, so I'm only going to live with her in Galt," and told A.C., "Mommy said not to tell you I saw the lady with the dollies," meaning Dr. Peerson. A.C. also learned mother had taken the minor to see Pastor Sabino to be interviewed regarding the sexual abuse allegations. During a pickup from mother for a recent visit, the minor told A.C., "The policeman gave me a badge today." When A.C. asked why the minor would have contact with the police, the minor explained, "It's a secret," "I'm not supposed to tell you," and "I'm not supposed to tell Daddy." A.C. also testified about an incident in May 2017 when she was on the telephone with the minor who said, "Mommy

said to say can you bring your jammies and spend the night so Daddy doesn't do bad things to me."

A.C. observed the minor to be very affectionate with father and never observed the minor to be fearful of him, noting the minor "hops right in the car" for visits. A.C. stated father and the minor always played together during visits and, when the minor was around father, the minor "loves him," "hangs on him," and asked "Where's my daddy" when he was not in the room. When father's visitation rights were reinstated after six weeks of suspension, the excited minor ran to father screaming, "Daddy."

A.C. denied ever telling mother she had walked in on father molesting the minor, as mother had previously alleged.

Juvenile Court's May 29, 2018, Ruling

The juvenile court found there was no credible evidence to support the Welfare and Institutions Code section 300, subdivision (d) allegation of sexual abuse of the minor by father and dismissed that allegation. The court sustained a subdivision (c) allegation that the minor was at substantial risk of suffering serious emotional damage due to mother's repeated, uncorroborated allegations that the minor suffered physical and sexual abuse by father. In that regard, the court found that, as a direct result of mother's allegations, the minor had been subjected to six vaginal exams between November 2016 and January 2018, all with normal results. The court further found the minor had been subjected to 10 interviews related to the alleged physical and sexual abuse by father between April 2017 and February 2018, and that mother had engaged in coaching the minor to allege acts of physical and sexual abuse by father. Finally, the court found the minor had recently been diagnosed with adjustment disorder and PTSD. The court found that mother was "simply not honest" in her testimony, and gave many examples supporting that determination.

The juvenile court further found, by clear and convincing evidence, that there was a substantial danger to the minor's physical health, safety, protection, and emotional

well-being if the minor were returned to mother's care and custody, and there were no reasonable means by which her well-being could be protected without removing her from mother's physical custody. Mother filed a timely notice of appeal.

DISCUSSION

I

ICWA Findings

Mother contended in her opening briefing that the juvenile court erred in finding the ICWA did not apply without further inquiry regarding mother's claim that she may have Native American heritage. The Department argued ICWA notice was not required here, where the minor was placed with father. Citing recent authority from this court, mother concedes the issue in her reply brief.

We agree with the parties that, by its own terms, the requirements of ICWA do not apply where the child is placed with at least one of the parents. (See *In re K.L.* (2018) 27 Cal.App.5th 332, 339 (*K.L.*); accord *In re J.B.* (2009) 178 Cal.App.4th 751, 758 [ICWA does not apply where juvenile court removed child and placed child in the father's custody]; see also *In re M.R.* (2017) 7 Cal.App.5th 886, 904-905.)

As this court recently held in *K.L.*, “[T]he ICWA requires more than just removal from a parent—it requires placement in one of the specified categories, none of which apply here. Nothing in the statutory language suggests that the ICWA applies when custody of an Indian child is transferred from one parent to another parent from whom no Indian ancestry flows. (Accord, *In re J.B.*, *supra*, 178 Cal.App.4th at pp. 757-758.) The biological ties to the minor, or the Indian ancestry, of the previously noncustodial parent are not determinative. (See *In re M.R.*, *supra*, 7 Cal.App.5th at p. 905.) ‘[T]he legislative intent behind ICWA expressly focuses on the removal of Indian children from their *homes and parents*, and placement in *foster or adoptive homes*.’ (*In re J.B.*, at p. 759.)” (*K.L.*, *supra*, 27 Cal.App.5th at p. 339.) We agree with the parties that no error appears.

II

Sufficient Evidence to Support Removal Order

A. Substantial Danger and Need for Removal

Mother first contends the court's removal of the minor from her custody was not supported by sufficient evidence of substantial danger to the minor's physical or emotional health and that removal was necessary. We disagree.

Under section 361, subdivision (c)(1), a dependent child may not be taken from the physical custody of a custodial parent unless the juvenile court finds by clear and convincing evidence "[t]here is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parent's . . . physical custody." (§ 361, subd. (c)(1).) "A removal order is proper if it is based on proof of (1) parental inability to provide proper care for the minor and (2) potential detriment to the minor if he or she remains with the parent. [Citation.]" (*In re T.W.* (2013) 214 Cal.App.4th 1154, 1163.) We review the dispositional order removing a child from parental custody for substantial evidence. (*In re John M.* (2012) 212 Cal.App.4th 1117, 1126.) The evidence is considered "in the light most favorable to the prevailing party, giving the prevailing party the benefit of every reasonable inference and resolving all conflicts in support of the order. [Citations.]" (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 576.)

Mother does not challenge the court's jurisdictional findings, including that the minor was at substantial risk of suffering serious emotional damage due to mother's conduct. These "jurisdictional findings are prima facie evidence that the child cannot safely remain in the home. [Citation.] The parent need not be dangerous and the child need not have been actually harmed for removal to be appropriate. The focus of the

statute is on averting harm to the child. [Citations.] In this regard, the court may consider the parent's past conduct as well as present circumstances. [Citation.]" (*In re Cole C.* (2009) 174 Cal.App.4th 900, 917.) Thus, from the moment jurisdiction was taken, there was prima facie evidence of both substantial risk and necessity of removal.

As the juvenile court pointed out, the evidence of mother's past conduct included a "staggering number of medical appointments" (approximately 25 between February 2014 and January 2018) and appointments in which the minor was questioned or prompted about the sexual abuse allegations (approximately seven between April 11, 2017 and January 19, 2018); an "astonishing" number of times mother contacted either law enforcement or a social services agency with allegations of sexual abuse by father (approximately 16 between December 5, 2016 and May 11 2018); and evidence of mother coaching the minor on what to say and what "secrets" not to reveal. Mother does not challenge these findings; they constitute prima facie evidence that it was not safe for the minor to remain with mother.

Mother claims she "ceased making reports" in the months leading up to the contested hearing. That claim is contested, as reports were made to law enforcement as recently as May 2018, when mother had documented contact with a deputy and complained of father's ongoing abuse of the minor. But even assuming mother was able to restrain herself from making false allegations for several months prior to the hearing, that restraint is far from dispositive. There is no evidence that mother's behavior had actually improved such that the minor was not at extreme risk for emotional abuse and risk of harm from mother's coaching and baseless allegations.

Mother claims her actions demonstrated she was "protective" of and "resourceful and motivated to provide care" for the minor, and that there was little chance she would resume her past conduct of making false reports. But as we have outlined above, the juvenile court made it abundantly clear that it found mother's testimony lacking in veracity and credibility, and we do not revisit those findings absent compelling reason.

Here there is none. “ ‘It is the trial court’s role to assess the credibility of the various witnesses, to weigh the evidence to resolve the conflicts in the evidence. We have no power to judge the effect or value of the evidence, to weigh the evidence, to consider the credibility of witnesses or to resolve conflicts in the evidence or the reasonable inferences which may be drawn from that evidence. [Citation.] Under the substantial evidence rule, we must accept the evidence most favorable to the order as true and discard the unfavorable evidence as not having sufficient verity to be accepted by the trier of fact.’ [Citation.]” (*In re A.S.* (2011) 202 Cal.App.4th 237, 244.) In addition to making numerous reports, including one made just weeks prior to the hearing, mother also admitted having violated the parties’ 2017 stipulated agreement in numerous ways as outlined above. This evidence supports the juvenile court’s determinations.

The juvenile court’s finding that mother’s continuing misconduct placed the minor at substantial risk “of escalating emotional harm” is similarly supported by substantial evidence. Mother’s actions throughout the length of the proceedings, including her blatant violation of stipulated agreements and court orders, clearly demonstrated her refusal to comply with measures put in place to mitigate harm to her daughter. The record confirmed the minor was already showing signs of emotional harm, as demonstrated in part by the fact that she had been diagnosed with PTSD that could have been a result of being separated from father and the paternal grandmother, having repeated examinations of her vaginal area, and repeatedly being questioned about sexual abuse. This evidence supported the finding.

B. Social Study Report

Mother claims the juvenile court erred in conducting the disposition without the benefit of a social study report as required pursuant to section 358, which provides in relevant part as follows: “After finding that a child is a person described in Section 300, the court shall hear evidence on the question of the proper disposition to be made of the child.” (§ 358, subd. (a).) Subdivision (b) of that section provides in part that, “[b]efore

determining the appropriate disposition, the court shall receive in evidence the social study of the child made by the social worker, any study or evaluation made by a child advocate appointed by the court, and other relevant and material evidence as may be offered In any judgment and order of disposition, the court shall specifically state that the social study made by the social worker and the study or evaluation made by the child advocate appointed by the court, if there be any, has been read and considered by the court in arriving at its judgment and order of disposition.” (§ 358, subd. (b)(1).)

First, the claim is forfeited, because mother failed to raise her claim at the time of the hearing. “A party forfeits the right to claim error as grounds for reversal on appeal when he or she fails to raise the objection in the trial court. [Citations.] Forfeiture, also referred to as ‘waiver,’ applies in juvenile dependency litigation and is intended to prevent a party from standing by silently until the conclusion of the proceedings. [Citations.]” (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 221-222.) Because county counsel fails to argue forfeiture, we briefly reach the merits.

At the start of the contested hearing, the juvenile court acknowledged it was in receipt of the relevant reports, including the jurisdiction/disposition report and addenda thereto. Thereafter, the court heard the testimony of numerous witnesses and experts as outlined above. Relying on all this evidence, the Department made its recommendation and the court followed it. The court then entered its detailed findings and orders, and fashioned the minor’s case plan with the input of all parties, later memorialized in written form by the Department. The court complied with the requirements of section 358.

III

Ineffective Assistance of Counsel

Mother contends ineffective assistance of counsel due to her trial counsel’s failure to properly subpoena witnesses who would have provided evidence that the minor’s disclosures of sexual abuse by father were made without coaching or encouragement from mother.

A claim of ineffective assistance of counsel may be reviewed on direct appeal when there is no satisfactory explanation for trial counsel's act or failure to act. (*In re N.M.* (2008) 161 Cal.App.4th 253, 270.) To prevail on such a claim, mother must demonstrate: "(1) counsel's representation fell below an objective standard of reasonableness; and (2) the deficiency resulted in demonstrable prejudice." (*In re Kristen B.* (2008) 163 Cal.App.4th 1535, 1540.) We must affirm the judgment unless the record "affirmatively establishes counsel had no rational tactical purpose for the challenged act or omission" (*Id.* at p. 1541.) In addition, we may reject mother's claim if she cannot show it is reasonably probable the result would have been more favorable to her but for trial counsel's alleged failings. (*In re N.M., supra*, at p. 270.)

Mother failed to demonstrate that her attorney's representation fell below the requisite standard. She identifies two witnesses, therapist Stilley and emergency social worker Corrie, each of whom she vaguely claims would have testified as to disclosures made by the minor outside mother's presence, to bolster mother's account of abuse. But the statements and opinions of both witnesses were contained in the reports and were already part of the evidence before the juvenile court. The court was aware that the minor had spoken of abuse outside her mother's presence; that fact neither dispelled the evidence of coaching and fabrication nor cured the absence of evidence of physical abuse. Mother's briefing does not specifically claim how counsel was deficient in failing to secure testimony from two witnesses whose help to her client's case is not evident.

Further, mother has failed to demonstrate prejudice. Given the volume of witness testimony and documentary evidence weighing against mother's accusations and suggesting the minor had been coached to make false accusations, whether in mother's presence or elsewhere, it is not reasonably probable the court would have found mother's claims credible but for her counsel's failure to call Stilley and Corrie to testify.

Mother has failed to demonstrate ineffective assistance of counsel.

DISPOSITION

The juvenile court's orders are affirmed.

Duarte, J.

We concur:

Raye, P. J.

/s/
Robie, J.